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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,571	10/17/2001	Motoki Kato	450100-4886.1	7985

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EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT PAPER NUMBER

2652

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/982,571

Examiner

P. Agustin

Applicant(s)

KATO, MOTOKI

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 09 August 2004.
 - (a) ☒ A reply was received on 17 February 2005 (with a Certificate of Mailing or Transmission dated 14 February 2005), which is after the expiration of the period for reply (including a total extension of time of 0 month(s)) which expired on 09 September 2004.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☒ A reply was received on 13 September 2004 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet


BRIAN E. MILLER
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment:

The amendment received on February 17, 2005 (with a Certificate of Mailing dated February 14, 2005) has not been entered because the period for reply has already expired one month after August 9, 2004, which is the mailing date of the first Notice of Non-Responsive Amendment.

In response to the Applicant's reply received September 13, 2004, the Office has mailed a second Notice of Non-Responsive Amendment. However, it should be noted that NO NEW TIME PERIOD has been set with this second notice (see NOTE below). Therefore, the period for response continued to run ONE MONTH FROM THE MAILING DATE OF THE FIRST NON-RESPONSIVE AMENDMENT, as indicated in the communication mailed January 14, 2005.

NOTE: The Applicant's reply received September 13, 2004 is NOT A BONA FIDE ATTEMPT to advance the application to final action. See MPEP § 714.03. The practice set forth in 37 CFR 1.135(c) does not apply where there has been a deliberate omission of some necessary part of a complete reply; rather, 37 CFR 1.135(c) is applicable only when the missing matter or lack of compliance is considered by the examiner as being "inadvertently omitted". Likewise, once an inadvertent omission is brought to the attention of the applicant (e.g., the first notice mailed August 9, 2004), the question of inadvertence no longer exists. Therefore, a second Office action giving another new (1 month) time period to supply the omission WOULD NOT BE APPROPRIATE under 37 CFR 1.135(c).

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.